

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 15633
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On March 26, 2001, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for tax years 1994 through 1998 in the total amount of \$45,269.

The taxpayers protested the determination. The taxpayers did not request a hearing, but did provide additional information. The Tax Commission, having reviewed the file, hereby issues its decision based thereon.

Idaho Code § 63-3030 states:

**63-3030. Persons required to make returns of income.**

[EFFECTIVE UNTIL JANUARY 1, 1996] (a) Returns with respect to taxes measured by income in this act shall be made by the following:

- (1) (A) Every resident individual having for the current taxable year a gross income, as defined by section 61(a) of the Internal Revenue Code, of one thousand dollars (\$1,000) or more, except that a return shall not be required of an individual (other than an individual referred to in section 6012(a)(1)(C) of the Internal Revenue Code)--

**63-3030. Persons required to make returns of income.** (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

- (1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.
- (2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

Information available to the Tax Commission indicated the taxpayers were Idaho residents who met the filing requirements for filing Idaho resident income tax returns during the years in question. Because the Tax Commission's files did not include the taxpayers' Idaho tax returns, the Bureau prepared Idaho individual income tax returns on the taxpayers' behalf and issued a notice of a deficiency, which the taxpayers appealed.

In their letter of protest, which was received on May 25, 2001, the taxpayers said they were not disputing the determination but wanted additional time to have their actual returns prepared and filed. They said because they were self-employed it was necessary to have their business tax returns prepared before going forward. The taxpayers said a computer failure had caused a great deal of difficulty with their records but they were now ready to take the information to the accountant. They asked for an additional 90 days.

At the end of the 90-day delay, the Bureau contacted the taxpayers. [Redacted] explained that their accountant had died and they had taken their records to a new accountant. Again, they asked for a continuance.

On August 23, 2001, the Bureau received W-2s showing Idaho withholding for the taxpayers for all of the years addressed in the deficiency notice from the taxpayers. The Bureau notified the taxpayers that the withholding allowed the portion of the deficiency determination addressing 1997 and 1998 to be canceled. The 1997 and 1998 tax years will not be a part of this decision.

The taxpayers' file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayers did not respond to a letter from the Tax Appeals Specialist that outlined their appeal rights. Nothing further has been received from the taxpayers.

The taxpayers' Idaho income tax responsibility was calculated based on income records

retained by [Redacted] the Tax Commission. The federal records were made available to the Tax Commission pursuant to Internal Revenue Code § 6103(d) and Idaho Code § 63-3077.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayers to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

The taxpayers have failed to file Idaho income tax returns for 1994, 1995, and 1996. Absent information to the contrary, the Tax Commission accepts the Bureaus calculation of Idaho income tax due. The withholding identified in the W-2s is allowed to offset a portion of the tax due each year.

WHEREFORE, the Notice of Deficiency Determination dated March 26, 2001, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1994	\$1,191	\$ 298	\$ 659	\$ 2,148
1995	8,709	2,177	4,057	14,943
1996	3,871	968	1,482	<u>6,321</u>
			TOTAL DUE	<u>\$23,412</u>

Interest is calculated through February 28, 2002.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]      [Redacted]  
[Redacted]      [Redacted]

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ADMINISTRATIVE ASSISTANT 1